IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

LETTERS PATENT APPEAL NO.50 OF 2005
IN
WRIT PETITION NO.213 OF 2005

President, Bhagwant Shikshan
Prasarak Mandal Barshi, Dist.Solapur & Anr. ...Appellants.
Vs.
Suresh Maruti Shinde & Ors. ...Respondents.

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Mr. M. V. Sali with Mr. A. R. Kapadnis for the Appellants.
Mr.I. M. Khairadi for the Respondents.

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CORAM : A. P. SHAH AND
DR.D.Y.CHANDRACHUD, JJ.

July 12, 2005.

P.C.:

The First Respondent moved the School Tribunal at Solapur against an order of termination passed by the management on 5th May 2004. The School Tribunal came to the conclusion in its judgment and order dated 29th November 2004 that the Enquiry Committee that was constituted by the management was not in accordance with the provisions of Rule 36 (2)(a) of the Maharashtra Employees of Private Schools (Conditions of Service), Rules 1981. This finding has been

affirmed in the impugned judgment and order dated 28th January 2005 of the Learned Single Judge. The School Tribunal directed that the First Respondent be reinstated in service with continuity of service with full back wages and consequential benefits. The petition filed by the management against the order of the Tribunal has been dismissed by the Learned Single Judge. During the course of the hearing, Counsel appearing on behalf of the Management and Counsel appearing on behalf of the First Respondent have agreed that the following order may be passed by consent and without any further reasons being recorded:

-1) The Appellants would be at liberty to constitute a fresh Enquiry Committee for the purposes of enquiring into the charges against the First Respondent dated 4th August 2003;

-2) In the meantime, the order of dismissal dated 5th May 2004 shall stand set aside and the First Respondent shall be reinstated in service;

-3) The Appellants shall pay to the First Respondent subsistence allowance from the date of suspension (28th June 2003) until the date of the order of dismissal (5th May 2004) within a period of two weeks from today;

-4) The Appellants shall pay to the First Respondent the arrears of salary from the date of dismissal until the date of joining service within a period of four weeks from today.

-5) The Appellants shall allow the First Respondent to resume duty with effect from 18th July 2005 and during the pendency of the disciplinary enquiry, the First Respondent shall not be placed under suspension in respect of the allegations which form the subject matter of the enquiry;

-6) The disciplinary enquiry shall be conducted in accordance with law after affording a reasonable opportunity to the First Respondent of establishing his defence in accordance with the principles of natural justice;

-7) In the event that an order adverse to the First Respondent is passed upon the conclusion of the disciplinary proceedings, it shall not be given effect to, for a period of four weeks from the date of communication to the First Respondent.

The Letters Patent Appeal shall stand disposed of by consent in the aforesaid terms since no other point has been pressed.

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